

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ALFONSO HERNANDEZ,

Plaintiff,

v.

No. Civ. 14-964 KG/SCY

CITY OF ALBUQUERQUE, et al.,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

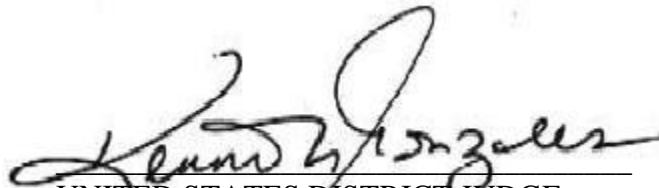
THIS MATTER is before the Court on Magistrate Judge Steven C. Yarbrough's September 6, 2016, Proposed Findings and Recommended Disposition ("PFRD") advising that the Court deny Defendants' motion to dismiss for discovery violations and, instead, impose lesser sanctions against Plaintiff. (Doc. 110). The parties have not filed objections to the PFRD, thereby waiving their rights to review of the proposed disposition. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1059-60 (10th Cir. 1996). Furthermore, upon review of the record, the Court concurs with the Magistrate Judge's findings and recommendations. **IT IS THEREFORE ORDERED THAT:**

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 110) is **ADOPTED**.
2. Defendant Fitzgerald's Motion to Dismiss for Discovery Violations (Doc. 95), which was joined by Defendant Powdrell (Doc. 96) and Defendant City of Albuquerque (Doc. 108), is **DENIED**.
3. Plaintiff shall pay the reasonable expenses, including costs and fees, incurred by Defendant Fitzgerald as a result of his investigation of public records and preparation

of the motion to dismiss. Plaintiff shall also pay the expenses incurred by counsel for all Defendants in their preparation for and attendance at the March 4, 2016, hearing before Judge Yarbrough. Specifically,

- a. Counsel for Defendant Fitzgerald shall submit an affidavit by **October 5, 2016**, detailing the reasonable expenses incurred for the investigation of public records, preparation of the motion to dismiss, and preparation for and attendance at the March 4, 2016, hearing.
 - b. Counsel for Defendants Powdrell and the City of Albuquerque shall also submit affidavits by **October 5, 2016**, detailing the reasonable expenses incurred in their preparation for and attendance at the March 4, 2016, hearing.
 - c. Plaintiff shall have until **October 12, 2016**, to file any written objections to the amounts set forth in the above affidavits.
4. The Court shall allow Defendants to cross-examine Plaintiff at trial regarding his failure to provide complete responses to Interrogatories No. 16 and No. 20.

IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE